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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,302	10/14/2003	Joseph M. Asher	03-6162	7925

63710 7590 02/10/2009
DEAN P. ALDERUCCI
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NEW YORK, NY 10022

EXAMINER

RENDON, CHRISTIAN E

ART UNIT	PAPER NUMBER
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3714


MAIL DATE	DELIVERY MODE
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02/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Application Number 	Application/Control No. 10/687,302 ChristianRendon	Applicant(s)/Patent under Reexamination ASHER ET AL. Art Unit 3714
Document Code - AP.PRE.DEC		

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 11/12/2008.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☒ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☒ Other: Applicant does not concisely point which limitations are not met by the current rejections.

"Content of Remarks or Arguments: The request should specify-

...clear errors in the examiner's rejections; or the examiner's omissions of one or more essential elements needed for a prima facie rejection. For example, the request should concisely point out that a limitation is not met by a reference or the examiner failed to show proper motivation for making a modification in an obviousness rejection (35 U.S.C. 103). Applicants are encouraged to refer to arguments already of record rather than repeating them in the request. This may be done by simply referring to a prior submission by paper number and the relevant portions thereof (e.g., see paper number 3 at pages 4 to 6). However, references such as "see the arguments of record" or "see paper number X" are not helpful and will just obfuscate the real issues for review..

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☐ The panel has determined the status of the claim(s) is as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) /Greg Vidovich/.

(3) /Dmitry Suhol/.

(2) /Christian Rendon/.

(4) _____.

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